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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[GN Docket Nos. 18-122, 17-183, RM-11791, RM-11778; FCC 18-91]

Expanding Flexible Use of the 3.7 to 4.2 GHz Band

AGENCY: Federal Communications Commission.

ACTION: Final action.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) adopts certification and information collection requirements for 3.7-4.2 GHz band spectrum that will be available for new wireless uses while balancing desired speed to the market, efficiency of use, and effectively accommodating incumbent Fixed Satellite Service (FSS) and Fixed Service (FS) operations in the band.

DATES: The certification requirements are adopted effective [**insert date of publication in the Federal Register**]; except for Earth Station and Space Station Information Collections in paragraphs 7-12, which contain information collection requirements that have not been approved by the Office of Management and Budget. The FCC will publish a document in the Federal Register announcing the effective date for those requirements.

FOR FURTHER INFORMATION CONTACT: Christopher Bair of the International Bureau, Satellite Division, at 202-418-0945 or christopher.bair@fcc.gov. For information regarding the Paperwork Reduction Act contact Cathy Williams, Office of Managing Director, at (202) 418-2918 or cathy.williams@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, GN Docket No. 18-122, FCC 18-91, adopted on July 12, 2018, and released on July 13, 2018. The complete text of this document is

available for public inspection and copying from 8 a.m. to 4:30 p.m. Eastern Time (ET) Monday through Thursday or from 8 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street S.W., Room CY-A257, Washington, DC 20554. The complete text is available on the Commission's Web site at <http://wireless.fcc.gov>, or by using the search function on the ECFS Web page at <http://www.fcc.gov/cgb/ecfs/>. Alternative formats are available to persons with disabilities by sending an e-mail to fcc504@fcc.gov or by calling the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (tty).

Paperwork Reduction Act

The Commission, as part of its continuing effort to reduce paperwork burdens, intends to invite the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4), the Commission will also seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Congressional Review Act

The Commission will send a copy of this Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act (CRA), see 5 U.S.C. 801(a)(1)(A).

I. INTRODUCTION

1. In this proceeding, the Commission is pursuing the joint goals of making spectrum available for new wireless uses while balancing desired speed to the market, efficiency of use, and effectively accommodating incumbent Fixed Satellite Service (FSS) and Fixed Service (FS) operations in

the band. To gain a clearer understanding of the operations of current users in the 3.7-4.2 GHz band, the Commission is requiring certifications and collecting information on current FSS uses.

II. BACKGROUND

2. In the 2017 Mid-Band Notice of Inquiry (Mid-Band NOI), the Commission began an evaluation of whether spectrum in-between 3.7 GHz and 24 GHz can be made available for flexible use—particularly for wireless broadband services.¹

III. ORDER: COLLECTING INFORMATION ON SATELLITE USAGE OF THE BAND

3. The record in response to the Mid-Band NOI reflects that the Commission's information regarding current use of the band is inaccurate and/or incomplete. Therefore, the Commission is collecting additional information to make an informed decision about the proposals discussed herein—including the scope of future FSS, FS, and potential mobile use of the band and the appropriate transition methodology. It is important that the Commission obtain a clear understanding of the operations of current users in the band. This user data will be vital to our consideration of how much spectrum could be made available, how incumbent operators could be protected, accommodated, or relocated, and the overall structure of the band going forward.

4. In furtherance of the Commission's goals of fostering more efficient and intensive use of the 3.7-4.2 GHz band as expeditiously as possible while protecting existing operations in the band from harmful interference, by this Order the Commission adopts the certification and information collection requirements described in paragraphs 5-12 below. The Commission and the public will use the information collected to evaluate future use of the 3.7-4.2 GHz band. The information may also be used in defining incumbent earth stations to be protected from harmful interference consistent with

¹ Expanding Flexible Use in Mid-Band Spectrum Between 3.7 and 24 GHz, GN Docket No. 17-183, Notice of Inquiry, 32 FCC Rcd 6373 (2017) (Mid-Band NOI).

parameters that may be developed in this proceeding. FSS operators may request confidential treatment of some or all of the information that they submit, consistent with the Commission's rules.²

5. Earth Station Data. — In order to evaluate the potential for a flexible use allocation in the 3.7-4.2 GHz band and determine how much spectrum could be made available, the Commission must evaluate the existing earth station usage of C-band satellites—including location and technical data that may be necessary to mitigate harmful interference. This information will assist the Commission in determining whether earth stations will need to be protected as well as how they may need to be protected depending on how the Commission moves forward with increasing the intensity of terrestrial use of the band. It will also allow the Commission to evaluate the feasibility of the various transition proposals.

6. The Commission directs operators of FSS earth stations, including temporary fixed or transportable earth stations, in the 3.7-4.2 GHz band that are licensed or registered (authorized) in International Bureau Filing System (IBFS) to certify the accuracy of all information reflected on their license or registration in IBFS. Given that they recently will have filed for new or modified licenses or registrations in IBFS, the Commission exempts from this Order those operators that file between April 19, 2018, and October 17, 2018, using the processes outlined in the Earth Station Filing Window Public Notices, including those that filed without coordination.³ This certification is necessary to inform

² Although the Broadband Access Coalition argues that all of the information required to be submitted by earth stations is “is no different from the detailed technical information provided, and made publicly available, for wireless providers in other services,” and thus should not be afforded confidential treatment, Broadband Access Coalition June 29, 2018 Ex Parte Letter, GN Docket No. 18-122, at 4, the Commission will review and assess requests for confidential treatment for the information submitted in response to this information collection according to the procedures set forth in the Commission's rules. See 47 CFR 0.459.

³ See Temporary Freeze on Applications for New or Modified Fixed Satellite Service Earth Stations and Fixed Microwave Stations in the 3.7-4.2 GHz Band; 90-Day Window to File Applications for Earth Stations Currently Operating in 3.7-4.2 GHz Band, GN Docket No. 17-183, WTB Docket No. 18-122, Public Notice, DA 18-398 at 1 (IB/PSHSB/WTB Apr. 19, 2018), 83 FR 21746 (May 10, 2018); International Bureau Announces 90-Day Extension

the Commission's decisions in this proceeding. Although the Commission does not require FSS earth station operators to provide additional information on their existing operations at this time, the Commission intends to seek comment on protecting only those earth stations licensed or registered in IBFS for which the licensee/registrant timely files the certification required in this Order (to the extent they registered before April 19, 2018). The Commission also intends to seek comment on whether further earth station information should be collected in the future to facilitate more efficient use of the 3.7-4.2 GHz band.⁴

7. Further, to account for the variable nature of temporary fixed or transportable earth stations,⁵ the Commission orders all such operations to submit additional information about their operations regardless of when they were licensed or registered. This information shall include:

- earth station call sign (or IBFS file number if a registration filed between April 19, 2018 and October 17, 2018, is pending);
- geographic location where the equipment is typically stored;

of Filing Window, to October 17, 2018, to File Applications for Earth Stations Currently Operating in 3.7-4.2 GHz Band, Filing Options for Operators with Multiple Earth Station Antennas, Public Notice, DA 18- 639 (IB Jun. 21, 2018), 83 FR 35454 (July 26, 2018) (collectively, the Earth Station Filing Window Public Notices).

⁴ NCTA – The Internet & Television Association filed an ex parte suggesting that this information collection order was not properly noticed under the Administrative Procedure Act (APA). Letter from Danielle Piñeres, NCTA, to Marlene Dortch, FCC, GN Docket No. 18-122 at 1-3 (filed July 2, 2018). While the Commission has discretion to seek comment before undertaking an information collection, it has never taken the position that such comment is a necessary prerequisite. Because the information collection adopted here is designed solely to obtain the information necessary to evaluate whether to adopt future Commission rules, it has no direct “future effect” and as such is not a rule requiring notice under the APA. See 5 U.S.C. 551(4); see also 44 U.S.C. 3507(c) (providing for PRA approval of an information collection not contained in a proposed rule). After adoption of the present Order, the Commission will comply with the PRA’s requirements, including by seeking public comment on, and Office of Management and Budget approval of, the final information collection before it becomes effective. As is permitted by the PRA, 44 U.S.C. 3506(c)(1)(B)(iii), this information collection is mandatory, but this Order does not specify any penalty for failure to respond.

⁵ A temporary fixed or transportable earth station is a fixed earth station that remains at a location for less than six months. See 47 CFR 25.277. Operations from these fixed stations are on a temporary basis and therefore variable in nature. A satellite news gathering truck is a common example of a temporary fixed or transportable earth station.

- the area within which the equipment is typically used;
- how often the equipment is used and the duration of such use (i.e., please provide examples of typical deployments, e.g., operation x days a week at sports arenas within a radius of y miles of its home base);
- number of transponders typically used in the 3.7-4.2 GHz band and extent of use on both the uplink and downlink; and
- licensee/registrant and point of contact information.

8. These data are needed to better understand the use of the band by temporary fixed or transportable operations. IBFS does not reflect the variations in the locations or intermittent use of such operations. This presents unique challenges for establishing a means of protecting temporary fixed or transportable operations against harmful interference.

9. The Commission directs the Wireless Telecommunications Bureau, International Bureau, and Office of Engineering and Technology (the Bureaus) to issue a Public Notice that will: (1) provide detailed instructions for earth station licensees or registrants to file certifications regarding existing information in IBFS; (2) establish a window for initial filings of certifications; and (3) outline the details for temporary fixed or transportable earth stations to submit the information requested above.

Because the Commission may use these data to inform its deliberations regarding the future use of the 3.7-4.2 GHz band, including possible interference avoidance coordination or relocation of facilities, the Commission encourages FSS earth station operators to update their information in the event of a change in any of the operational parameters.

10. Space Station Data.—In order to evaluate the potential for a flexible use allocation in the 3.7-4.2 GHz band and to determine how much spectrum could be made available, it is also necessary

to evaluate the existing FSS downlink capacity of C-band satellites. This information will assist the Commission in determining whether there is sufficient capacity in the upper portion of the C-band to accommodate customers vacating transponders from the lower portion of the C-band. It will also allow the Commission to evaluate the feasibility of various transition proposals.

11. Accordingly, operators with existing FSS space station licenses or grants of United States market access in the 3.7-4.2 GHz band shall provide the following information:

- satellite call sign, name, and orbital location;
- expected end-of-life for satellite;
- the approximate dates that any additional C-band satellites with a currently pending application in IBFS are planned for launch to serve the United States market (note whether this satellite is a replacement);
- whether any additional C-band satellites that do not have a currently pending application in IBFS are planned for launch to serve the United States market and the approximate date of such launch (note whether this satellite is a replacement);
- for each transponder operating in the 3.7-4.2 GHz range that is operational and legally authorized to serve customers in the United States, for the most recent month,⁶ provide the following:
 - the frequency range of transponder and transponder number;⁷

⁶ The “most recent month” will be defined in the Bureau’s forthcoming public notice and will be a month following release of this Order.

⁷ For purposes of this information collection, “transponder number” refers to a standard 36 megahertz wide transponder and that transponder numbering (1-24) is based on the former center-frequency requirement for C-band

- the capacity in terms of the number of megahertz on each transponder that are currently under contract (also provide this data for one month in 2016);⁸
- For each day in the most recent month, please provide the percentage of each transponder's capacity (megahertz) utilized and the maximum capacity utilized on that day. (Parties should use the most recent month of data and provide the date range at which the data was collected; they may also supplement the data with historical trend data over recent months up to three years if they feel it displays utilization variances);
- the center frequency and bandwidth of the Telemetry Tracking and Command beam(s); and
- the call sign and geographic location (using NAD83 coordinates) of each TT&C receive site.

12. The Commission will seek approval from the Office of Management and Budget (OMB) before the information collection becomes effective, and following OMB approval, the Commission will publish notice of the effective date of the information collection and filing deadline in the Federal Register. The Commission also directs the Bureaus to consider whether additional information should be collected from either FSS earth station operators or satellite licensees and to seek notice and

space stations. See 47 CFR 25.211(a) (2014). While this rule is no longer in effect, most satellites providing service to the United States in the 3.7-4.2 GHz band are configured in accordance with the transponder plan described in the rule.

⁸ The information collected will provide comparative data of transponder usage over time and allow the Commission and the public to evaluate options for the future use of the 3.7-4.2 GHz band.

comment regarding the need to initiate a second information collection if such additional information is necessary to supplement the information submitted in this proceeding.

IV. ORDERING CLAUSES

13. IT IS FURTHER ORDERED that pursuant to section 4(i) of the Communications Act of 1934, as amended, that this Order IS ADOPTED effective upon publication in the Federal Register. This Order contains information collection requirements subject to the Paperwork Reduction Act of 1995 that are not effective until approved by the Office of Management and Budget.

14. IT IS FURTHER ORDERED that the NOTICE OF INQUIRY, GN Docket No. 17-183, Expanding Flexible Use in the Mid-Band Spectrum Between 3.7-24 GHz, adopted on August 3, 2017, IS TERMINATED as to the 3.7-4.2 GHz band.

FEDERAL COMMUNICATIONS COMMISSION

Marlene Dortch,

Secretary,

Office of the Secretary.

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